

April 2016

Procurement: State and Federal Rules

Child and Adult Nutrition Services



This institution is an equal opportunity provider.



Who must follow procurement rules?

My school is too small that doesn't apply to my school.

My school doesn't use a management company, so that doesn't apply to me.

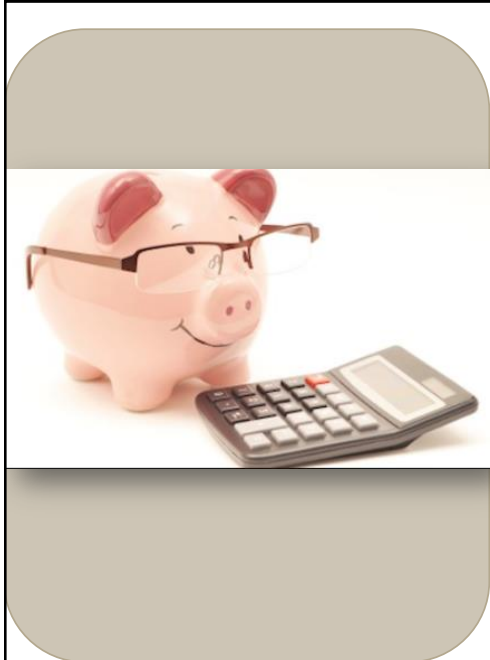
I can only get one vendor to service my school, so those rules don't apply to me.

My school is BIE or is a private school, those rules do not apply here.



Procurement Rules apply to
all Schools and Agencies
operating the National
School Lunch Program,
or any other Child
Nutrition Program

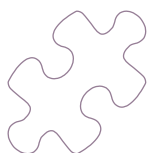




Why?

Using federal taxpayer dollars requires you to use those dollars to maximize free and open competition

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Procurement Rules

- Result in better quality, price, & service for the school
- Ensure fair and open competition
- You must use the most restrictive of state, local, or federal guidelines
- For large and small purchases

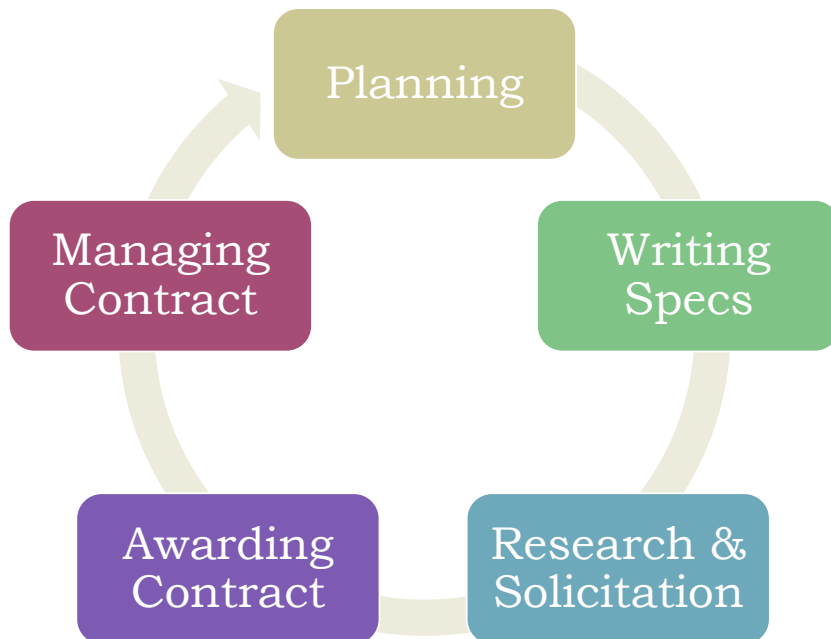
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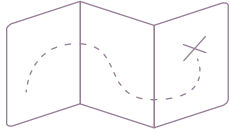
Nonprofit School Food Service Funds

- Can only be used to purchase allowable goods and services
- All funds that go into nonprofit school foodservice account must be used within program regulations

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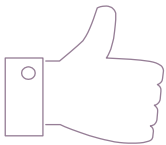


Step 1: Preparation for Procurement

- Review your procurement plan
- Identify what you will purchase
- Estimate the cost of those items
- Develop or update bidders list
- Identify the procurement method to use

Procurement Plan Handout

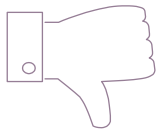
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Step 2: Writing Specs

- Specifications are accurate, clear, and not overly restrictive
- Specifying a brand name item and specifying "brand name or equal"
 - It is better to specify a grade or quality level
- Describe quality and quantity of foods

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Overly Restrictive Specs

- Specifying 1 brand name
- Drafting specs, terms & conditions, and award criteria so only 1 source can respond
- Allowing a vendor to draft terms/specs
- Changing award criteria without notifying all potential vendors

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Step 3: Research & Solicitation

- Determine procurement method:
 - Formal vs. Informal vs. Micro
- Develop solicitation
- Evaluate responses

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Services

SD Law

- **Informal:** < \$25,000
- **Formal:** ≥\$25,000

Supplies
(not perishable)

SD Law


- **Informal:** < \$25,000
- **Formal:** ≥\$25,000

Food
Perishable

Federal Law

- **Informal:** <\$150,000
- **Formal:** ≥\$150,000

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Think about it: How do you break up your purchases?

	Estimated category purchases are:	Informal	Formal
Grannies Bread Co	\$75,000 / 9 month school year	X	
Dairy Air Milk Co	\$275,000 / 9 month school year		X
Services			
Groceries			

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Informal Procurement Methods

Services
less than
\$25,000

SDCL 5-18A-14

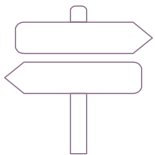
Supplies (not
perishable) less
than
\$25,000

SDCL 5-18A-14
SDCL 5-18A-22(12)

**Food/
Perishables**
less than
\$150,000

2 CFR 200.88

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Informal

- Get quotes by phone, email, fax, or catalogs
- 2-3 vendors must be included in the solicitation
- Keep these documents for 3 yrs. past current year or longer if an audit is open

2 CFR 200.320

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Supplier Name:		Supplier A: Bob's Company			Supplier B: Mary's Company			Supplier C: Pat's Company			
Items to be Purchased: <ul style="list-style-type: none"> Product specifications Delivery Frequency: <u>one time delivery</u> Bid will be honored for: <u>two weeks</u> (school will state time period) 		Quantity estimated to be purchased	Unit Price	Extended Price (Quantity x Unit Price)	*BS (✓)	Unit Price	Extended Price (Quantity x Unit Price)	*BS (✓)	Unit Price	Extended Price (Quantity x Unit Price)	*BS (✓)
1. Applesauce 6/10 cans		30	15.75	472.50	<input type="checkbox"/>	16.50	495.00	<input type="checkbox"/>	15.00	450.00	<input type="checkbox"/>
2. Pineapple 6/10 cans		10	16.25	162.50	<input type="checkbox"/>	17.50	175.00	<input type="checkbox"/>	18.00	180.00	<input type="checkbox"/>
3. Cranberry Sauce 6/10 cans		5	25.25	126.25	<input type="checkbox"/>	21.75	108.75	<input type="checkbox"/>	23.50	117.50	<input type="checkbox"/>
4. Peaches, Freestone, (Halves) 6/10 cans		30	22.25	667.50	<input type="checkbox"/>	21.50	645.00	<input type="checkbox"/>	22.75	682.50	<input type="checkbox"/>
Total:				\$1433.25			\$1423.75			\$1430.00	
*Bidder Selected (BS)		<input type="checkbox"/>			<input checked="" type="checkbox"/>			<input type="checkbox"/>			
<small>*Bidder Selected (BS); school can award all items to one bidder (lowest total price) or award purchase on a line item basis (lowest line item price). School need to tell the bidders which option they will use for awarding the purchase when they are asking for pricing. Schools can state that either option may be used by the school to award the purchase.</small>											
Method of contact: Phone, Fax, Email or In Person		Fax			Phone			In Person			
Name of person providing bid:		Bob			Mary			Pat			
Date contacted:		July 11, 2012; Faxed in bid - Bid sheets attached			July 10, 2012; Price given per phone. - Confirmed in writing and attached			July 13, 2012; Visited store and obtained prices. - Price sheet attached			
Additional Notes:		Bob said their fresh fruit and vegetables are more competitively priced than canned goods.			Best overall pricing; Mary stated that they will have a clearance special going on in October.			Pat said that their delivery costs have gone up recently but that in November they will have a new distributor and pricing.			
Signature of person completing this form: <u>Sam Anderson</u>										Date: <u>July 15, 2012</u>	

Informal Procurement Log Example

Informal Procurement Methods: Micro-purchase

**NEW in
SY16-17**

Services
less than
\$3,500

Supplies
less than
\$3,500

**Food/
Perishables**
less than
\$3,500

2 CFR 200.67

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Micro-purchase

- Aggregate purchase amount cannot exceed \$3,500
- Micro-purchases must be distributed equally to suppliers
- Prices must be reasonable
- Can be awarded **without** informally soliciting complete quotes

2 CFR 200.320 (a)



Formal Procurement Methods: IFB or RFP

Services
≥\$25,000

SDCL 5-18A-14

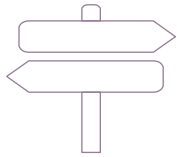
Supplies
(not perishable)
≥\$25,000

SDCL 5-18A-14
SDCL 5-18A-22(12)

**Food/
Perishables**
≥\$150,000

2 CFR 200.88





Formal

- Solicitations for contracts using sealed bids or competitive proposals
- Published, provide specs, include requirements of terms & conditions, include evaluation & award process
- Keep docs 3 yrs. past current year

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Competitive Sealed Bidding: Invitation for Bid (IFB)

- Specs easily developed
- Product/service is easy to identify
- Responses will differ only by **price**
- More than 1 source is willing & able to compete
- **No negotiating contract terms or price**

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Competitive Proposals: Request for Proposal (RFP)

- Award based on scored factors that must include low cost
- The SFA can negotiate after evaluating proposals

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Group Buying Organizations, Group Purchasing Organizations, Cooperative Purchasing Between Multiple Organizations, etc.

- **All groups must follow same procurement requirements**
- Examples in SD: Avera PACE, Buy Board, SFAs coordinating purchasing together

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Contract Requirements for NSLP & SBP



7 CFR Parts 210.21 and 220.16

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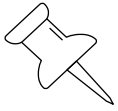


Buy American

Using federal funds requires you to **purchase foods and supplies that are grown, made, and processed in America**, whenever possible.

210.21(d)

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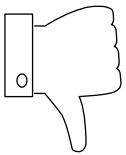


Written Standards of Conduct

SFA's are required to have a written code of conduct covering **conflicts of interest** and ensuring fair use of school foodservice funds.

200.318

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Conflicts of Interest



- No one person can benefit at the expense of their school/agency or public interest
- Excuse yourself if involved in the conflict of interest
- Check district requirements for signing conflict of interest statement
- **Vendors that help write the bid, cannot respond to the bid.**

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Conflict of Interest



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Where do you draw the line for a conflict of interest?



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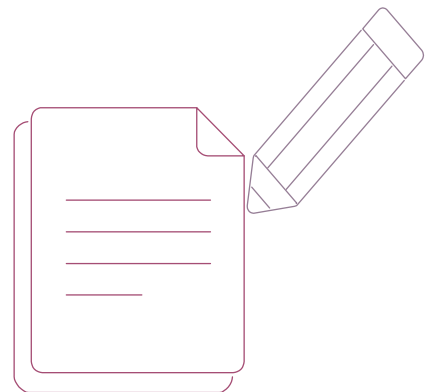
Applicable credits

Discounts, rebates and credits must be credited to your nonprofit school foodservice account as a cost reduction or cash refund.

7 CFR Part 210.21(f)
2 CFR part 200.406

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Other Contract Considerations



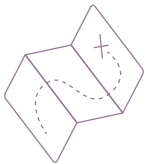
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Overly Responsive

- Response includes items that were not in original solicitation
 - e.g. new signage for your cafeteria
- **Items cannot go into consideration for contract award if it was not in original solicitation!**

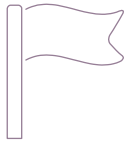
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Geographic Preference

- Program operators can define & use local area to buy unprocessed locally grown or locally raised agricultural products
- SFA can determine the local area
- Memo SP18 – 2011 Procurement Geographic Preference Q&As dated February 1, 2011 contains more information

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Step 4: Awarding the Contract

Awards must be made only to responsive and responsible vendors

Responsive
vendors product or
service meets the
SFA's specs

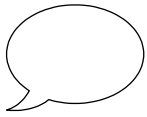
Responsible
vendor can & will fulfill
the terms & conditions of
the contract

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**Contract
Awarded!**
*I'm FINALLY
DONE,
right?*



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Step 5: Contract Management

- Make sure your vendors follow through with the contract
- You provide your vendors with regular feedback on their performance throughout the life of the contract

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Report to Your Vendor

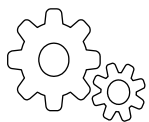
- Incorrect quantities delivered
- Deliveries were not on time
- Deliveries to the wrong location(s)
- Food fails to meet the quality specs
- Vendor is not following the contract substitution policy

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Administrative Review

SY 16-17: a new Procurement Module will be included in all **Administrative Reviews**



Authorities

www.ecfr.gov

7 CFR 210	National School Lunch Program
7 CFR 215	Special Milk Program
7 CFR 220	School Breakfast Program
7 CFR 225	Summer Food Service Program
7 CFR 226	Child and Adult Care Food program
7 CFR 250	Donation of Foods for Use in the US ... (USDA Foods)
2 CFR 200	Uniform Administrative Requirements, Cost Principles, & Audit Requirements for Federal Awards



SD Bid Booklet

South Dakota Local Government Guide For Acquisitions, Disposables, and Exchanges

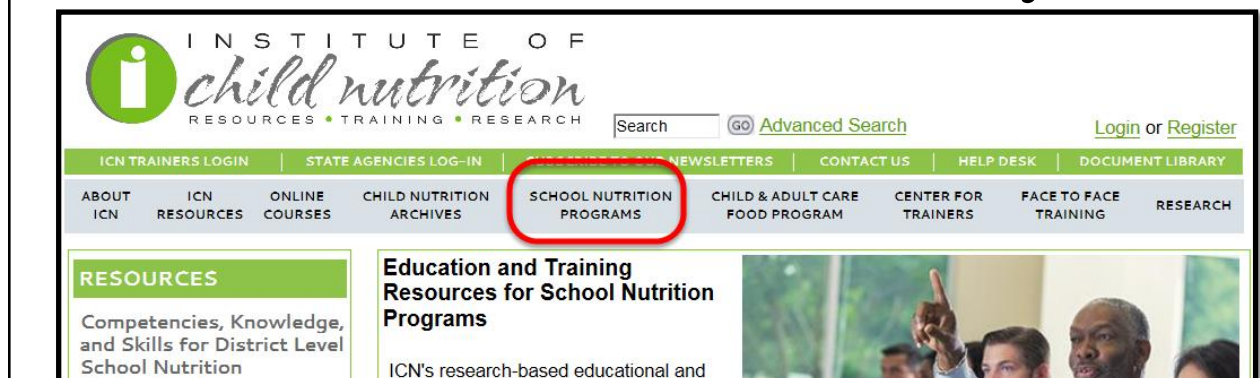
<http://legislativeaudit.sd.gov/General%20resources/Bid%20Booklet%202013.pdf>



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Additional Resources

- Institute of Child Nutrition (ICN)
nfsmi.org
- Procurement in the 21st Century



Summer Training Opportunities

**CANS is hosting
ICN Procurement in the 21st Century &
½ day Procurement Workshop**

July 18 – 20 at Rapid City School Dist.

August 1 – 3 at Augustana Sioux Falls

August 8 – 10 at Pierre Visitor Center

**SNA SD is hosting
ICN Procurement in the 21st Century**
July 26 – 28 in Watertown

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**Procurement:
State and Federal Rules
Professional Standards Training Credit**

Print, sign, & date this certificate for your records.

This training credits for 1.5 hours of training in

Key Area 2: Operations 2000:

2410: Product Specifications, 2420: Bid Solicitation & Eval,
2430: Purchase Food, Supplies & Equip, 2440: Food & Supplies Orders

Your Name:

Date of Training:



Questions?

Email: DOE.SchoolLunch@state.sd.us

Phone: 605-773-3413

Fax: 605-773-6846



This institution is an equal opportunity provider.

